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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,991	12/11/2001	Gregory E. Sancioff	ONUX-4 CON	4207
23628	7590	06/27/2005	EXAMINER	
WOLF GREENFIELD & SACKS, PC FEDERAL RESERVE PLAZA 600 ATLANTIC AVENUE BOSTON, MA 02210-2211			JACKSON, GARY	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,991

Applicant(s)

SANCOFF ET AL.

Examiner

Gary Jackson

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 53-75 and 88-99 is/are allowed.
- 6) ☒ Claim(s) 76-80, 82-86 and 100-104 is/are rejected.
- 7) ☒ Claim(s) 81 and 87 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>May 27, 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to applicants' amendment filed April 6, 2005. The amendment has been considered, however, it does not place the application in condition for allowance.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 76, 79, 82, 83, 84, 85, 86, are rejected under 35 U.S.C. 102(b) as being anticipated by Yoon (US Patent 4,935,027). Drive mechanism 22 is capable of driving the suture through tissue clamp between the jaws 24. The drive force required is a function of the sharpness and other characteristics of the wire and the tissue to be sutured.

Claim Rejections - 35 USC § 103

Claims 76-78, 80 and 100-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon (US Patent 4,935,027) in view of Carusillo et al (US Patent 5,207,697), Yeung (US Patent 5,895,395) and Tifenbrun et al (US Patent 6,331,182). Concerning claims 100-104, twisting suture wire is one of many well-known methods of securing suture wire. It would have been within the purview of one having ordinary skill in the art to twist and sever the suture wire of Yoon. The patent to Tifenbrun teaches twisting the end portions of a suture by twisting the ends of a suture instrument.

Allowable Subject Matter

Claims 81 and 87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 53-75 and 88-99 are allowable over the art of record.

Response to Arguments

Applicant's arguments filed April 6, 2005 have been fully considered but they are not persuasive. Concerning applicants' argument that the Yoon does not suggest a drive mechanism that moves wire with force sufficient to penetrate tissue. Rather, the instrument of Yoon has forceps arms with sharp tips that pierce tissue upon bringing the tips together. A suture material advancement mechanism advances suture material through the forceps arms that provide a passageway through the tissue, such that the suture material need not itself penetrate the tissue". There is nothing in Yoon's reference that prevents the suture from penetrating tissue. The suture per se has not been claimed and further the suture is capable of penetrating fatty tissue without the use of the forceps arms. Further, the drive mechanism 22 is capable of driving the suture through tissue clamp between the jaws 24. The drive force required is a function of the sharpness and other characteristics of the wire and the tissue to be suture.

The arguments further suggest that against the prior lack teaching or suggestion of twisting a suture. That argument is moot in view of the newly cited prior art reference to Tiefenbrun et al that clearly suggest rotating the jaws of the device to twist the suture securely on the tissue.

The examiner believes the action is proper and therefore made final.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (571) 272-4697. The examiner can normally be reached on Mon.-Thurs. 7:30 am to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Antoine Nguyen can be reached on (571) 272-4693. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary Jackson
Primary Examiner
Art Unit 3731



gj
June 20, 2005